

IN THE COURT OF APPEALS OF THE STATE OF IDAHO

Docket No. 36224

STATE OF IDAHO,)	2009 Unpublished Opinion No. 725
)	
Plaintiff-Respondent,)	Filed: December 15, 2009
)	
v.)	Stephen W. Kenyon, Clerk
)	
MANUEL SANTOS HERNANDEZ,)	THIS IS AN UNPUBLISHED
)	OPINION AND SHALL NOT
Defendant-Appellant.)	BE CITED AS AUTHORITY
)	

Appeal from the District Court of the Fourth Judicial District, State of Idaho, Ada County. Hon. Deborah A. Bail, District Judge.

Order relinquishing jurisdiction, affirmed.

Molly J. Huskey, State Appellate Public Defender; Justin M. Curtis, Deputy Appellate Public Defender, Boise, for appellant.

Hon. Lawrence G. Wasden, Attorney General; Lori A. Fleming, Deputy Attorney General, Boise, for respondent.

Before LANSING, Chief Judge; GUTIERREZ, Judge;
and MELANSON, Judge

PER CURIAM

In this case we are asked to determine whether the district court abused its discretion in refusing to grant probation following a period of retained jurisdiction. We are also asked to review a unified sentence of eight years, with a minimum period of confinement of two years, for aggravated battery. We affirm.

Manuel Santos Hernandez pled guilty to one count of aggravated battery. I.C. §§ 18-903(a), 18-907(a). Following his plea, Hernandez was sentenced to a unified term of eight years, with a minimum period of confinement of two years. The district court retained jurisdiction for 180 days, and Hernandez was sent to participate in the rider program. Hernandez completed the retained jurisdiction program, and the district court suspended Hernandez's sentence and placed him on probation.

Hernandez later admitted to violating the terms of his probation, and the district court revoked his probation and ordered execution of his sentence. The district court again retained jurisdiction and sent Hernandez to participate in the rider program. The district court, thereafter, relinquished jurisdiction. Hernandez appeals, claiming that the district court erred by relinquishing jurisdiction and argues that the sentence of eight years, with a minimum period of confinement of two years, is excessive and constitutes an abuse of discretion.

We note that the decision to place a defendant on probation or whether, instead, to relinquish jurisdiction over the defendant is a matter within the sound discretion of the district court and will not be overturned on appeal absent an abuse of that discretion. *State v. Hood*, 102 Idaho 711, 712, 639 P.2d 9, 10 (1981); *State v. Lee*, 117 Idaho 203, 205-06, 786 P.2d 594, 596-97 (Ct. App. 1990).

The record in this case shows that the district court properly considered the information before it and determined that probation was not appropriate. We hold that Hernandez has failed to show that the district court abused its discretion, and we therefore affirm the order relinquishing jurisdiction.

Hernandez also contends that the unified sentence eight years, with a minimum period of confinement of two years, is excessive and constitutes an abuse of discretion. Sentences are reviewed for an abuse of discretion. Our appellate standard of review and the factors to be considered when evaluating the reasonableness of a sentence are well-established. *State v. Burdett*, 134 Idaho 271, 1 P.3d 299 (Ct. App. 2000); *State v. Sanchez*, 115 Idaho 776, 769 P.2d 1148 (Ct. App. 1989); *State v. Reinke*, 103 Idaho 771, 653 P.2d 1183 (Ct. App. 1982); *State v. Toohill*, 103 Idaho 565, 650 P.2d 707 (Ct. App. 1982). When reviewing the length of a sentence, we consider the defendant's entire sentence. *State v. Oliver*, 144 Idaho 722, 726, 170 P.3d 387, 391 (2007).

The record does not indicate that his unified sentence of eight years, with a minimum period of confinement of two years, was an abuse of discretion in this case. Accordingly, the sentence is affirmed.

The order of the district court relinquishing jurisdiction and Hernandez's sentence are affirmed.